

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00903  
**Petitioners:** Frances B. & Joseph P. Sasak  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-46-0403-0012  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent on February 17, 2004. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$53,500 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on October 5, 2004.

### Facts

5. The subject property is located at 4249 Jefferson Street, Gary, in Calumet Township.
6. The subject property is a single-family home on 0.172 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of the subject property as determined by the DLGF:  
Land \$10,300      Improvements \$43,200      Total \$53,500
9. Assessed Value requested by the Petitioners on the form 139L:  
Land \$ 2,500      Improvements \$22,500      Total \$25,000

10. Persons sworn as witnesses at the hearing:  
For Petitioners — Joseph P. Sasak, Owner  
For Respondent — Larry Vales, Representing the DLGF

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioners contend that the area surrounding the subject property is a crime ridden and garbage-strewn area, which has a detrimental effect on the market value of the subject property. *Sasak Testimony; Petitioner Exhibits A, B.*
  - b) The Petitioners contend that the average list price for the area is \$28,334 and the average sale price is \$26,237. *Board Exhibit A; Sasak Testimony.*
  - c) The Petitioners contend that the subject property is over assessed when the comparable sale presented is considered. *Sasak Testimony; Petitioner Exhibit C.*
  - d) The Respondent's comparable sales are located ten blocks away, in an area that does not have the same problems as the subject property. *Sasak Testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a) The Respondent contends that the characteristics of the subject property are assessed correctly on the property record card. *Vales Testimony; Respondent Exhibit 2.*
  - b) The Respondent contends that the subject property is fairly assessed based on comparable sales presented at the hearing and no change is warranted. *Vales Testimony; Respondent Exhibit 4.*
  - c) The Respondent contends that the effect of litter and crime in the surrounding area is considered in the assessment of the subject property through the 65% adjustment factor applied to the remainder value. *Vales Testimony; Respondent Exhibit 2.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition.
  - b) The tape recording of the hearing labeled Lake Co. 503.

c) Exhibits:

Petitioner Exhibit A: Newspaper Articles  
Petitioner Exhibit B: Photos of neighborhood  
Petitioner Exhibit C: Residential Client Detail Report  
Respondent Exhibit 1: Form 139L Petition  
Respondent Exhibit 2: Subject property record Card  
Respondent Exhibit 3: Subject photo  
Respondent Exhibit 4: Comparables Results – Top 3  
Respondent Exhibit 5: Property record cards and photos (allegedly comparables)  
Board Exhibit A: Form 139L Petition  
Board Exhibit B: Notice of Hearing  
Board Exhibit C: Sign in sheet

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases are:

- a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").
- c) A petitioner must submit 'probative evidence' that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, are not sufficient to establish an alleged error. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax 1998); *see also Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
- d) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioners did not provide sufficient testimony to support their contentions. This conclusion was arrived at because:
- a) The Petitioners contend that the average list price for the area is \$28,334 and the average sale price is \$26,237, but they failed to establish how this information is probative regarding the value of their own property. *Whitley Products*, 704 N.E.2d at 1119.
  - b) They claim the subject property is over-assessed when the comparable sale at 4237 Madison for \$21,000 is considered. The Petitioners provided evidence of only one sale in the neighborhood. They failed to show how the sold property was similar to the subject property. The sold property was smaller than the subject, in poorer condition, and the Residential Client Detail Report shows a bank sold the property as a fixer-upper. The Petitioners failed to establish comparability with their property. Accordingly, the sale of 4237 Madison Street, Gary, has no probative value in this case. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005).
  - c) The Petitioners provided evidence as to the presence of crime and litter in the area surrounding the subject property. They did not provide, however, probative evidence to establish or quantify the effect on the value of their property.
  - d) The Respondent testified that the effects of crime and of the littered conditions in the area surrounding the subject property were accounted for on the property record card in a 65 percent downward adjustment in value on all the improvements on the parcel. *Vales Testimony; Respondent Exhibit 2*.
  - e) The Petitioners did not prove that the crime and littered conditions in the area of the subject property warranted a downward adjustment in the assessment of the subject property greater than 65 percent. *Whitley Products*, 704 N.E.2d at 1119.

### **Conclusion**

16. The Petitioners did not establish a prima facie case. The Board finds in favor of the Respondent.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**